IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.3326 OF 2002

Mrs.Rupal Rupesh Shroff Plaintiff

versus

Collins and Company and others Defendants

Mr.Vijay Sonpal for plaintiff.

Mr.Ashish Panikar i/by Khaitan & Jaykar for defendants.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th July 2005

PC :

1. Heard Mr.Sonpal for plaintiff and Mr.Panikar for defendants. Mr.Sonpal informs that in this summary suit a summons for judgement was taken out. On that summons for judgement this Court passed an order granting conditional leave to the defendants to defend. That order directs payment of Rs.96,000/- within a period of eight weeks from the date of order. Mr.Sonpal informs that that period has expired long time back. Amount is not deposited. There is no appeal challenging that order. There is no application made seeking extension of time. Consequently, the plaintiff

is entitled to a decree as prayed.

2. On the last occasion this matter had appeared under the same caption but defendants' advocate purported to appear at that stage, for defendants. It was brought to their notice that Vakalatnama cannot be accepted at this stage. However, learned advocate stated that he would like to seek instructions from the defendants with regard to complying with the order passed by this Court. The matter was adjourned till today on payment of costs of Rs.5,000/-. Condition precedent.

3. Today, Mr.Panikar informs that the costs of Rs.5,000/- would be paid during the course of the day.

4. He further states that defendants are unable to pay a sum of Rs.96,000/- straight way but would pay the same in instalments of Rs.10,000/-. Mr.Sonpal on taking instructions from the plaintiff's representative who is present in the Court, states that the plaintiffs are not agreeable to settle the claim by this mode.

5. Mr.Sonpal states that the claim in the suit

is for Rs.1,47,631.33 Ps. and therefore, plaintiffs are unable to accept Rs.96,000/- in full and final settlement of their claim.

6. In the light of the aforesaid, there will be a decree as prayed. It is clear that all opportunities given to the defendant to defend the claim have been availed of. They have not abided by the conditions imposed in the order passed by this Court. Consequently, the plaintiff is entitled to judgement. Original documents along with list taken on record and marked "X" for identification. There will be a decree as prayed. Refund of court fees and computation of advocates' costs as per rules.

(S.C.DHARMADHIKARI, J.)